IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

RP.No. 533 of 2007()

AGAINST THE JUDGEMENT/ORDER IN STRV.108/2006 Dated 17/07/2006
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: PETITIONER IN STREV:

M/S.MEENACHIL RUBBER MARKETING AND
PROCESSING CO-OPERATIVE SOCIETY LTD.,
NO.K 118, P.B.NO.14, PALA 686 575,
REPRESENTED BY ITS MANAGING DIRECTOR
M.N.GOPALAKRISHNA PANICKER.

BY ADV. SRI.B.S.KRISHNAN (SR.)
SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN

RESPONDENTS: RESPONDENT IN STREV:
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1. STATE OF KERALA REPRESENTED BY
THE DEPUTY COMMISSIONER (LAW), COMMERCIAL TAXES,
KOTTAYAM.

2. THE SALES TAX APPELLATE TRIBUNAL,
ADDITIONAL BENCH, KOTTAYAM.

3. THE DEPUTY COMMISSIONER (LAW),
COMMERCIAL TAXES. KOTTAYAM.

4. THE ADDITIONAL SALES TAX OFFICER-II,
PALA.

BY ADV. SHRI.C.K.GOVINDAN, GOVERNMENT PLEADER

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 11/07/2007, ALONG WITH RP Nos. 533, 551, 552, 553, 554, 555, 556, 557, 558, 561 & 562 of 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

R.P. Nos. 533, 551, 552, 553 554, 555, 556, 557, 558, 561 & 562 of 2007

Dated, this the 11th day of July, 2007

O R D E R

Ramachandran Nair, J.

These review petitions arise from common judgment in the batch STRVs filed by the petitioner against the order of the Sales Tax Appellate Tribunal. The Tribunal remanded the case for fresh assessment and vide judgment in STRVs, we only confirmed the same. The petitioner's grievance is that the circular referred to by the Tribunal in their order, which in turn is referred to in Para 6 of the judgment, does not apply to the impugned assessments because circular is made applicable with effect from subsequent date. This was not an issue decided by this Court. In view of the remand, it is open to the petitioner to raise their contentions, including applicability of circular in the revised assessment proceedings. It is for the Officer to consider all contentions raised including applicability or relevance of circular. Obviously, if circular is not applicable to the petitioner, then of course, Department cannot rely on the same in the assessments against the petitioner.

Since the validity of the circular is not considered by the Tribunal, this was neither raised nor decided by this Court in the revision petitions. Since neither the Tribunal nor this Court went into the validity of circular, it is open to the petitioner to challenge the circular if they so desire.

These review petitions are closed with the above observations.

C.N.RAMACHANDRAN NAIR,
JUDGE

K.M.JOSEPH,
JUDGE.

jg